

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 01-244
(Judge Charles W. Cope)

Case No. SC01-2670

AFFIDAVIT OF JOHN S. MILLS
IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES

STATE OF FLORIDA
COUNTY OF DUVAL

BEFORE ME, the undersigned authority, personally appeared John S. Mills,
who being first duly sworn, deposes and says:

1. I am the duly appointed Special Counsel in the above-captioned proceedings.

2. At no point have I ever “admitted that there was no legal or factual basis to pursue the claims of theft, attempted forceful entry/peering, lying to the police and failure to report” or that I “knew [I] could not obtain a conviction on such charges.”

3. To the contrary, at all material times in these proceedings, I have firmly believed that Judge Cope took the key to Lisa and Nina Jeanes’ hotel room, used that key to try to gain entry into their room, and intentionally lied to the police when he was arrested. I have also firmly believed throughout that Judge Cope acted in violation of the Code of Judicial Conduct by not recusing himself from domestic violence cases involving similar charges or, at the very least, disclosing his arrest to the litigants so

that they could decide whether to move to disqualify him. I have also firmly believed throughout that Judge Cope violated the code and brought disrespect to the judiciary by actively concealing his arrest from the Commission until it was about to be reported in the newspapers.

4. In support of his earlier motions to dismiss, which he incorporates by reference into his motion for attorney's fees, Judge Cope submitted a copy of a draft stipulation exchanged between Mr. Merkle and me during our settlement negotiations. Mr. Merkle and I had agreed in principle that I would recommend to the Investigative Panel that it agree to settle this matter. Judge Cope offered to accept a reprimand and suspension without pay on the public intoxication, inappropriate conduct, and failure to disclose charges, in exchange for the dismissal of the counts regarding stealing the key, breaking into the hotel room, and lying to the police. Mr. Merkle and I exchanged drafts of a stipulation to present to the Investigative Panel. I agreed to recommend the draft that Judge Cope has filed in this case. He points to language in that draft that states there is insufficient evidence to meet the high burden of proof in this case. I agreed to recommend this language because, in my professional opinion, such language would be required before the Supreme Court of Florida could approve the contemplated settlement.

5. Two factors led me to agree to recommend this settlement agreement.

First, I recognized that it would be difficult to prove the charges that boil down to a swearing contest between Judge Cope and Lisa Jeanes. Because the charges must be proven by clear and convincing evidence, I understood that there was a clear risk that the Hearing Panel might be reluctant to find that a sitting judge would offer false testimony. While I believed Lisa Jeanes was telling the truth, I was concerned about the damage a trial would do to the public's perception of the judiciary if the public were to believe Lisa Jeanes, but the Hearing Panel were to find that there was insufficient evidence to meet the high evidentiary standard required to impose judicial discipline.

6. Second, Mr. Merkle told me at the time that he had additional evidence that would cast doubt on Lisa Jeanes' credibility. Specifically, he told me that a former boyfriend of hers would testify that she had the same anatomical feature that Judge Cope claimed to have witnessed on her body (thus casting doubt on her denial that she undressed in front of him) and that another boyfriend would testify that she had recently gotten pregnant and had an abortion (thus casting doubt on her testimony that the abortion she was discussing with her mother was not recent).

7. I specifically told Mr. Merkle that my position regarding settlement depended on him providing evidence to support these claims. Not only was Mr. Merkle unable to provide such evidence, however, both former boyfriends were

deposed. The first boyfriend testified that Lisa did not have the same anatomical feature testified to by Judge Cope, and the second boyfriend testified that the only time he even suspected that Lisa had had a recent abortion was when Judge Cope's investigator falsely told him that she had.

8. I advised the Investigative Panel that based upon my professional judgment in preparing the case for trial, I believed that there was in fact clear and convincing evidence of guilt, but that the Hearing Panel might be hesitant to find Lisa Jeanes' testimony sufficiently clear and convincing to support removal or other serious discipline. Because of the damage to the judiciary that might result if the Hearing Panel disagreed with me and found for Judge Cope on those charges, I suggested that they consider accepting a settlement so Judge Cope would not escape with only a reprimand.

9. To allow the Investigative Panel time to consider the proposed settlement, I agree to join Judge Cope in a request to continue the trial originally set for April 14, 2001. On Friday, April 12, 2002, Judge Cope appeared before the Investigative Panel to discuss the proposed settlement agreement. During this meeting, I witnessed Judge Cope display no genuine remorse for any of his conduct and instead vindictively focus on demanding that the Investigative Panel make a finding that Lisa Jeanes was a sexual predator who had falsely accused Judge Cope.

10. The Investigative Panel declined to accept Judge Cope's settlement offer, and the case went to trial.

11. At the conclusion of the trial, the Hearing Panel found in favor of Judge Cope on Counts II, IV, V, and VI.

12. To this day, I firmly believe that Lisa Jeanes told the truth and that Judge Cope's intoxicated state and admitted blackouts in California rendered his denials unreliable and/or unbelievable. The clear and convincing evidence standard is a high standard, however, and I certainly accept the Hearing Panel's authority to find to the contrary. The important point, though, is that at no time did I ever participate in the prosecution of Judge Cope for any reason other than that I thought the Investigative Panel was fully justified in finding probable cause and that I believed that Judge Cope was guilty as charged.

Further your Affiant sayeth not.

John S. Mills

Sworn to and subscribed before me, this ___ day of August, 2002, by John S. Mills, who is personally known to me and did take an oath.

Notary Public